No. 967. 894

Motion Papers for P. C.

Filed May 4, 1896.

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JAMES H. MCKENNEY,
CLERK

In the Supreme Court of the United States.

OCTOBER TERM, 1895.

HENRY C. KING, *Plaintiff in Error,*

vs.

M. B. MULLINS, *et als., Defendants in Error.*

NO. 967.

Writ of Error to the Circuit Court of the United States for the District of West Virginia, Fourth Circuit.

MOTION TO ADVANCE.

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OCTOBER TERM, 1895.

HENRY C. KING, *Plaintiff in Error*,

vs.

M. B. MULLINS, *et als.*, *Defendants in Error.*

NO. 987.

Writ of Error to the Circuit Court of the United States for the District of West Virginia, Fourth Circuit.

MOTION TO ADVANCE.

This case is a Writ of Error to review a final judgment of the United States Circuit Court for the District of WestVirginia, rendered in an action of ejectment brought by plaintiff in error against defendants in error and others to recover about 300,000 acres of land situate in said District.

The question of law involved is the validity or invalidity of a provision of the constitution of the

State of West Virginia, for the forfeiture of lands and charged to be in conflict with Article XIV, of the Amendments to the Constitution of the United States.

The land in controversy embraces a considerable portion of four counties in said State, in the heart of a region of great undeveloped coal and timber wealth, and was purchased by plaintiff at great cost with a view to development and the establishment of extensive industries; but in the present uncertainty of title is a source of heavy expense, and is subject to constant depredation and spoliation.

About two hundred or more persons and corporations, some occupants of the land, and some non-residents, defendants in this and other suits, are claimants of portions of said land, in tracts ranging from a few hundred acres to many thousand acres each, under interlocking and overlapping grants and many varieties of color of title or without color of title; and the true ownership of the land being uncertain and in dispute, the land is unsalable by either claimant, investment of capital is withheld, the use and enjoyment of the land is limited, the development of the country is retarded, trespass and spoliation of the land facilitated and encouraged, and sacrifice and loss to all lawful claims and interests of all parties occasioned.

The County officers, many of whom are interested adversely to plaintiff, refuse to receive from plaintiff any taxes, even upon the land unclaimed

by others, and many adverse claimants, uncertain of their title, are unwilling to pay, and are withholding, taxes and great loss of revenue to the State results.

The condition of land titles throughout a large part of the State is notoriously one of great confusion and uncertainty, resulting in chief measure from the forfeiture or confiscation laws and the complications arising from them, the validity of which laws is variously asserted, doubted and denied, but has never been passed upon by this Court.

The interests directly concerned in this suit and which will be injuriously affected by delay in the decision thereof, are very great; and numberless other tracts of land, large and small, throughout the State, and the interests connected therewith, will likewise be affected and the rights of parties be determined, by the decision of the Court in this cause, which decision by reason of the wide notoriety acquired by this cause in the Court below and the questions there raised, is awaited generally with interest and anxiety.

The record in the case is very short, and substantially but two questions at the most are presented.

Wherefore Plaintiff in Error, by his counsel, respectfully moves the Court to advance this cause and assign it for hearing at an early day:

First:—Because the questions involved are of general public interest;

SECOND:—Because the decision of this case will be a construction of the Constitution of the United States and of the Constitution of a State, and will determine the rights of a large number of persons and the title to many tracts, and a great area, of land;

THIRD:—Because a speedy determination of said questions will settle much pending, and prevent much future, litigation and will hasten the development of a rich and extensive country.

Notice of this motion has been served upon Defendants in Error, as will appear from proof filed with the Clerk, and defendants are anxious, equally with plaintiff, that this case be advanced.

MAYNARD F. STILES,
Counsel for Plaintiff in Error.